

1
2
3 Douglas D. Phelps
4 Phelps & Associates, P.S.
5 2903 N. Stout Road
6 Spokane, WA 99206
7 Phone: (509)892-0467
8 Fax: (509)921-0802
9
10
11

12 UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF WASHINGTON
14

15 UNITED STATES OF AMERICA,)	
	)	Case NO. 2:21-CR-0091-TOR-1
16 Plaintiff)	
)	
17 vs.	)	MOTION TO CONTINUE
	)	SENTENCING HEARING
18)	
19 ANTOINNE HOLMES,)	
)	
20)	
	)	Without Oral Argument
21 Defendant.	)	June 30, 2022, at 6:30 p.m.
22)	

23 COMES NOW the defendant, ANTOINNE HOLMES, by and through his
24 attorney of record, DOUGLAS D. PHELPS, and hereby moves the Court to
25
26 continue the currently set sentencing hearing of July 6, 2022 (ECF 82) to a new
27
28

1 date after August 15, 2022, and continue all associated sentencing deadlines. This
2 motion is based on the attached declaration of counsel.

3
4 **DECLARATION OF COUNSEL**

- 5 1) I am over the age of 18 and competent to testify in this matter.
- 6 2) I am the attorney of record for ANTOINNE HOLMES in the above-
7 entitled matter.
8
- 9 3) On or about June 14, 2022, I received an email from the office of
10 Judge B. Lynn Winmill, U.S. District Court Judge for the District of
11 Idaho, indicating that the sentencing hearing previously set for June
12 22, 2022, for Mr. Antoine Holmes' U.S. District Court matter in
13 Idaho (2:21-cr-118-BLW(1)) was being reset to August 9, 2022, at 10
14 a.m. The email indicated that the jury trial Judge Winmill was
15 currently hearing in Boise, Idaho was taking much longer than
16 expected, and he would not be available to hear Mr. Holmes'
17 sentencing on June 22, 2022. (See email, dated June 14, 2022,
18 attached hereto as Exhibit A)
19
- 20 4) I contacted the Assistant United States Attorney for the Eastern
21 Washington U.S. District Court case, Mr. Michael Ellis, and he
22 indicated he has not objection to the continuing the sentencing
23 hearing for the Eastern District of Washington case, as it has been
24
25
26
27
28

1 planned in this matter to hold the U.S. District of Idaho sentencing
2 prior to the sentencing hearing in the Eastern District of Washington
3 case. Mr. Ellis requested that the new sentencing hearing be set to a
4 date after August 15, 2022, due to his long planned personal vacation
5 set for the first two weeks in August 2022.
6

7
8 FOR THE FOREGOING REASONS, Mr. Antoine Holmes respectfully
9 requests that this Court grant his motion to continue his sentencing hearing and all
10 related deadlines.
11

12 Respectfully submitted this 16th day of June, 2022

13 s/Douglas D. Phelps
14 ISBA #22620
15 Phelps & Associates, PS
16 Attorney for Defendant
17 2903 N. Stout Rd
18 Spokane, WA 99206
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Assistant United States Attorney, Michael Ellis

/s/Douglas D. Phelps
ISBA #22620
Phelps & Associates, PS
Attorney for Defendant
2903 N. Stout Rd
Spokane, WA 99206

Douglas D. Phelps
Phelps & Associates, P.S.
2903 N. Stout Road
Spokane, WA 99206
Phone: (509)892-0467
Fax: (509)921-0802

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	
	)	Case NO. 2:21-CR-0091-TOR-1
Plaintiff)	
)	
vs.	)	MOTION TO CONTINUE
	)	SENTENCING HEARING
ANTOINNE HOLMES,)	
)	
	)	Without Oral Argument
Defendant.	)	June 30, 2022, at 6:30 p.m.
)	

COMES NOW the defendant, ANTOINNE HOLMES, by and through his
attorney of record, DOUGLAS D. PHELPS, and hereby moves the Court to
continue the currently set sentencing hearing of July 6, 2022 (ECF 82) to a new

1 date after August 15, 2022, and continue all associated sentencing deadlines. This
2 motion is based on the attached declaration of counsel.

3
4 **DECLARATION OF COUNSEL**

- 5 1) I am over the age of 18 and competent to testify in this matter.
- 6 2) I am the attorney of record for ANTOINNE HOLMES in the above-
7 entitled matter.
- 8
9 3) On or about June 14, 2022, I received an email from the office of
10 Judge B. Lynn Winmill, U.S. District Court Judge for the District of
11 Idaho, indicating that the sentencing hearing previously set for June
12 22, 2022, for Mr. Antoine Holmes' U.S. District Court matter in
13 Idaho (2:21-cr-118-BLW(1)) was being reset to August 9, 2022, at 10
14 a.m. The email indicated that the jury trial Judge Winmill was
15 currently hearing in Boise, Idaho was taking much longer than
16 expected, and he would not be available to hear Mr. Holmes'
17 sentencing on June 22, 2022. (See email, dated June 14, 2022,
18 attached hereto as Exhibit A)
- 19
20 4) I contacted the Assistant United States Attorney for the Eastern
21 Washington U.S. District Court case, Mr. Michael Ellis, and he
22 indicated he has not objection to the continuing the sentencing
23 hearing for the Eastern District of Washington case, as it has been
24
25
26
27
28

1 planned in this matter to hold the U.S. District of Idaho sentencing
2 prior to the sentencing hearing in the Eastern District of Washington
3 case. Mr. Ellis requested that the new sentencing hearing be set to a
4 date after August 15, 2022, due to his long planned personal vacation
5 set for the first two weeks in August 2022.
6

7
8 FOR THE FOREGOING REASONS, Mr. Antoine Holmes respectfully
9 requests that this Court grant his motion to continue his sentencing hearing and all
10 related deadlines.
11

12 Respectfully submitted this 16th day of June, 2022

13 s/Douglas D. Phelps
14 ISBA #22620
15 Phelps & Associates, PS
16 Attorney for Defendant
17 2903 N. Stout Rd
18 Spokane, WA 99206
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Assistant United States Attorney, Michael Ellis

/s/Douglas D. Phelps
ISBA #22620
Phelps & Associates, PS
Attorney for Defendant
2903 N. Stout Rd
Spokane, WA 99206

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Patricia Snyder

From: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Sent: Tuesday, June 14, 2022 9:04 AM
To: Ellsworth, Bryce (USAID); Patricia Snyder
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

Good morning,

I will enter a notice resetting the hearing for August 9 at 10:00 a.m. Please feel free to let the victim's family know.

Thank you both for your understanding.



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

From: Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>
Sent: Tuesday, June 14, 2022 9:48 AM
To: Patricia Snyder <psnyder@phelpslaw1.com>; Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

CAUTION - EXTERNAL:

Either day works with my office too. Can I go ahead and let the victim's family know.

Thanks

Bryce

From: Patricia Snyder <psnyder@phelpslaw1.com>
Sent: Tuesday, June 14, 2022 8:45 AM
To: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>; Ellsworth, Bryce (USAID) <BEllsworth@usa.doj.gov>
Subject: [EXTERNAL] RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

Mr. Phelps can make either day work.

If you have questions or concerns, please contact our office at 509-892-0467.

Patricia Snyder

Patricia Snyder
Criminal Case Manager

Phelps & Associates, P.S.
2903 N. Stout Road
Spokane, WA 99206
P: (509) 892-0467
F: (509) 921-0802

NOTICE: This message contains information that may be confidential and privileged. It is for the sole use of the intended recipient(s). If you are not the intended recipient(s), you may not use, copy, or disclose to anyone the message or any information contained in this message. If you have received this message in error, please advise the sender by reply email and immediately delete this message. Thank you.

From: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Sent: Monday, June 13, 2022 3:15 PM
To: Patricia Snyder <psnyder@phelpslaw1.com>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

Good afternoon,

Thank you for reaching out, however there is no need to email me a copy or mail a copy. The Court will access the sentencing memorandum through CM/ECF.

I should note that Judge Winmill is involved in a lengthy criminal jury trial in Boise and will not be able to conduct the sentencing on June 22. I need to reschedule the sentencing hearing. Judge Winmill will be in Coeur d'Alene the week of August 8th. I intend to reschedule the sentencing hearing for August 9 or 10. Do either of these days work well for Mr. Phelps?

Bryce – do you have a preference for August 9 or 10?

Respectfully,



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

From: Patricia Snyder <psnyder@phelpslaw1.com>
Sent: Monday, June 13, 2022 2:06 PM
To: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

CAUTION - EXTERNAL:

Ms. Gearhart:

Our office just filed the Defendant's Sentencing Memorandum (under seal) for Mr. Holmes' case entitled above. Can we email you a copy of the memorandum for Judge Winmill? Or do we need mail/hand deliver a copy for Judge Winmill?

If you have questions or concerns, please contact our office at 509-892-0467.

Patricia Snyder

Patricia Snyder
Criminal Case Manager
Phelps & Associates, P.S.
2903 N. Stout Road
Spokane, WA 99206
P: (509) 892-0467
F: (509) 921-0802

NOTICE: This message contains information that may be confidential and privileged. It is for the sole use of the intended recipient(s). If you are not the intended recipient(s), you may not use, copy, or disclose to anyone the message or any information contained in this message. If you have received this message in error, please advise the sender by reply email and immediately delete this message. Thank you.

From: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Sent: Thursday, February 24, 2022 8:35 AM
To: Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>; Patricia Snyder <psnyder@phelpslaw1.com>
Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson_Acheson@id.uscourts.gov>; Patricia Snyder <psnyder@phelpslaw1.com>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes (ZOOM Link)

Thank you both for responding. Please use the following Zoom link to participate in the change of plea hearing scheduled for March 8 at 1:30 pm mountain time.

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1616909786?pwd=Y3BYSzVPTXF4OWxhcExyOWxSV1pNUT09>

Meeting ID: 161 690 9786
Passcode: 957298

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

Meeting ID: 161 690 9786
Passcode: 957298

Thank you,



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

From: Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>
Sent: Thursday, February 24, 2022 9:05 AM
To: Patricia Snyder <psnyder@phelpslaw1.com>; Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson_Acheson@id.uscourts.gov>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes

CAUTION - EXTERNAL:

That works for me too.

Thanks

From: Patricia Snyder <psnyder@phelpslaw1.com>
Sent: Thursday, February 24, 2022 7:22 AM
To: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>; Ellsworth, Bryce (USAID) <BEllsworth@usa.doj.gov>
Cc: Drobny, Kyle (USMS) <KDrobny@usms.doj.gov>; Alyson Acheson <Alyson_Acheson@id.uscourts.gov>
Subject: [EXTERNAL] RE: 2:21-cr-118-BLW USA v Antoine James Holmes

Mr. Phelps will be beginning a 4-day trial on 2/28. The last date, 3/8/22 at 1:30 p.m. MST will work for Mr. Phelps' schedule.

If you have questions or concerns, please contact our office at 509-892-0467.

Patricia Snyder

Patricia Snyder
Criminal Case Manager
Phelps & Associates, P.S.
2903 N. Stout Road
Spokane, WA 99206
P: (509) 892-0467
F: (509) 921-0802

NOTICE: This message contains information that may be confidential and privileged. It is for the sole use of the intended recipient(s). If you are not the intended recipient(s), you may not use, copy, or disclose to anyone the message or any information contained in this message. If you have received this message in error, please advise the sender by reply email and immediately delete this message. Thank you.

From: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>
Sent: Thursday, February 24, 2022 6:15 AM

To: Patricia Snyder <psnyder@phelpslaw1.com>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>; Patricia Snyder <psnyder@phelpslaw1.com>
Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson.Acheson@id.uscourts.gov>
Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes

Good morning,

Does Mr. Holmes still wish to proceed with a Zoom Change of Plea Hearing before Judge Winmill? If so, please let me know if any of the following dates work.

February 28 at 11:00 a.m. mountain time

March 3 at 11:30 a.m. or 1:30 p.m. mountain time

March 8 at 1:30 p.m. mountain time

It would be helpful to know by this afternoon so we can make the proper arrangements with the marshals, particularly if February 28th is the date selected.

Thank you,



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

From: Jamie Gearhart

Sent: Tuesday, February 22, 2022 7:35 AM

To: Patricia Snyder <psnyder@phelpslaw1.com>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>

Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson.Acheson@id.uscourts.gov>; Jackie Hildebrand <Jackie.Hildebrand@id.uscourts.gov>

Subject: RE: 2:21-cr-118-BLW USA v Antoine James Holmes

Good morning,

Judge Winmill is available for a Zoom Change of Plea hearing the following dates/times. Please let me know what works best.

February 28 at 11:00 a.m. mountain time

March 3 at 11:30 a.m. or 1:30 p.m. mountain time

Thank you,



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

From: Patricia Snyder <psnyder@phelpslaw1.com>

Sent: Wednesday, February 16, 2022 4:14 PM

To: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>

Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson_Acheson@id.uscourts.gov>; Jackie Hildebrand <Jackie_Hildebrand@id.uscourts.gov>

Subject: RE: 2:21-cr-118-BLW USA v Antoinne James Holmes

CAUTION - EXTERNAL:

Ms. Gearhart:

Mr. Holmes consents to doing the Change of Plea over zoom.

If you have questions or concerns, please contact our office at 509-892-0467.

Patricia Snyder

Patricia Snyder
Criminal Case Manager
Phelps & Associates, P.S.
2903 N. Stout Road
Spokane, WA 99206
P: (509) 892-0467
F: (509) 921-0802

NOTICE: This message contains information that may be confidential and privileged. It is for the sole use of the intended recipient(s). If you are not the intended recipient(s), you may not use, copy, or disclose to anyone the message or any information contained in this message. If you have received this message in error, please advise the sender by reply email and immediately delete this message. Thank you.

From: Jamie Gearhart <jamie_gearhart@id.uscourts.gov>

Sent: Tuesday, February 15, 2022 5:33 PM

To: Patricia Snyder <psnyder@phelpslaw1.com>; Ellsworth, Bryce (USAID) <Bryce.Ellsworth@usdoj.gov>

Cc: Drobny, Kyle (USMS) <Kyle.Drobny@usdoj.gov>; Alyson Acheson <Alyson_Acheson@id.uscourts.gov>; Jackie Hildebrand <Jackie_Hildebrand@id.uscourts.gov>

Subject: 2:21-cr-118-BLW USA v Antoinne James Holmes

Good evening Mr. Phelps,

Judge Winmill is able to conduct a change of plea hearing next week or the week after if it is conducted via Zoom. Does Mr. Holmes consent to proceeding via Zoom? If not, I will need to make other arrangements and Judge Winmill will not be in Coeur d'Alene until the week of May 2.

Respectfully,



Jamie Gearhart

Courtroom Deputy
The Honorable B. Lynn Winmill
U.S. Courts, District of Idaho
jamie_gearhart@id.uscourts.gov
208-334-9021

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.